



# Regulatory Advisory

December 16, 2008



## TRU Advisory: 08-15, Rev. 1

### Six-Month Grace Period for First In-Use Performance Standard Compliance Date and Revised TRU Registration and Operator Report Schedule

The U.S. Environmental Protection Agency (U.S. EPA) has not made a decision to grant California authorization to enforce the in-use performance standards of the **Transport Refrigeration Unit Airborne Toxic Control Measure (ATCM)**. This advisory announces that the California Air Resources Board (ARB or Board) will administratively delay enforcement of the In-Use Performance Standards for six months after the December 31, 2008, initial compliance date, or six months after authorization approval from the U.S. Environmental Protection Agency (U.S. EPA), if approval occurs after the initial compliance date. In addition, the submittal deadlines for the ARB Identification Number (IDN) applications and Operator Reports will be delayed.

#### Background

On February 26, 2004, ARB adopted the ATCM. The rulemaking became effective December 10, 2004, and is codified at title 13 California Code of Regulations (CCR), section 2477. The ATCM requires all transport refrigeration units (TRU) and TRU generator sets (collectively referred to as TRU) that operate in California, regardless of where they are based (i.e. the ATCM covers both in-state and out-of-state TRUs), to meet in-use performance standards that are to be phased in over the next several years based upon the model year of the TRU engine. Under the first phase of the ATCM, all model year 2001 and older TRUs are required to be in compliance by December 31, 2008 (affected by grace period). Phase-in for 2002 and subsequent model year TRUs must be completed by the end of the seventh year after the TRU engine model year (not affected by grace period). All TRUs operating in California must eventually meet the most stringent in-use standard. The TRU ATCM also requires owners of California-based TRUs to apply for ARB identification numbers (IDN) by January 31, 2009. And, operators of California-based TRUs must submit Operator Reports by January 31, 2009. Both of these dates are now delayed (see table below).

Pursuant to section 209(e)(2) of the federal Clean Air Act, on March 28, 2005, ARB requested that U.S. EPA authorize California to enforce the TRU ATCM and waive the implied preemption of that section. As of this publication, U.S. EPA has not made a decision to authorize ARB to enforce the TRU ATCM's In-Use Performance Standards. This has created significant uncertainty for the regulated stakeholders.

#### Compliance and Enforcement Policies

##### Will ARB administratively delay the enforcement of the first phase of the In-Use Performance Standards?

Yes. ARB will administratively delay the enforcement of the first phase of the In-Use Performance Standards for six months after the December 31, 2008, initial compliance date, or six months after authorization approval from U.S. EPA, if approval occurs after the initial compliance date.

##### Will applications for ARB Identification numbers (IDN) and Operator Reports still be required per the original compliance schedule?

No. ARB will delay the TRU registration and Operator Report schedule. The previous compliance deadline for these submittals was January 31, 2009. About the same amount of time between forms and on-line system availability and due dates will be provided in the revised registration schedule

The revised TRU registration and Operator Report schedule follows:

December 1, 2008	Manual equipment registration forms available on TRU website and as mail-out. (Note that forms have been revised from the draft versions.)
Mid-December 2008	Manual Operator Report Form will be available for download from the TRU website and as a mail-out.
January 6, 2009	ARB will accept manual Equipment Registration Forms, manual Model-Engine-Compliance Information Forms, manual Operator Report Forms, and manual Batch Upload Permission Forms through the mail. On-line electronic registrations and operator reports will be accepted at the ARBER website. ARBER begins issuing ARB IDNs.
January 20, 2009	Batch uploads to ARBER of IDN applications will be accepted.
March 16, 2009	Deadline for California-based TRU registrations and California-based operator reports to be submitted.
April 16, 2009	Deadline for applying the ARB IDNs to both sides of the TRU housing. Enforcement of IDN and Operator Reports begins.

TRU Advisory 08-06 provides more information about the information that is needed to apply for IDNs.

Does this mean that ARB will also delay the subsequent phases of the In-Use Performance Standards?

No. There is no plan to delay subsequent phases of the In-Use Performance Standards.

Why is ARB delaying these compliance dates?

The six-month grace period will allow carriers time to pursue compliance in good faith and also addresses some of the uncertainty that has been caused by U.S. EPA's delay in issuing authorization. The delayed TRU registration and Operator Report schedule will allow ARB more time to test the on-line Air Resources Board Equipment Registration (ARBER) system.

Will those that have already complied get credit for complying early?

No. Only those that complied by June 30, 2008 will be eligible for the ULETRU compliance extension.

Will ARB also not enforce the TRU ATCM's prohibition of sale of noncompliant TRUs during the six-month grace period?

The sales prohibition provisions of the TRU ATCM in title 13 California Code of Regulations, section 2477, subsection (g) prohibit the sale of noncompliant TRUs in the State of California. ARB will not enforce this prohibition during the six-month grace period, on the condition that the seller provides proper written disclosure to the buyer prior to sale that the unit will be noncompliant in the near future. Buyers should be aware that they would be purchasing a TRU which would need to be replaced or brought into compliance by the end of the six-month grace period.

Will ARB revise the TRU ATCM to address any other issues?

No. ARB staff will closely monitor implementation and compliance with the TRU ATCM, but at this time, there are no plans to propose amendments to the TRU ATCM to the Board.

#### **For more information**

To obtain a copy of the regulation or other related compliance assistance documents, visit the TRU website at <http://www.arb.ca.gov/diesel/tru.htm>. Additional questions may be addressed by calling the toll-free TRU Help Line at 1-888-878-2826 (1-888-TRU-ATCM).

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 323-7053.